IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

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WRIT PETITION NO : 8707 of 1995

Between:

1. L. Vittal Reddy, S/o. L.Nagi Reddy, age 58 yrs,
ACC in APSRTC, E.No.27157, Sanga Reddy Depot,

Medak District. (Died per LRs)

2. Smt. L. Rukuma Bai, w/o. Late L. Vittal Reddy, age 60 yrs,

3. L. Manik Reddy, s/o. late L. Vittal Reddy, age 44 yrs,

3. L. Nagi Reddy, s/o. Late L. Vittal Reddy, age 32 yrs,

all are r/o. Choutkur (village), Pulkal (Mandal)

Medak District.

(Petitioners 2 to 4 come on record as LRs of deceased-petitioner No.1

as per Court Order dated 28.10.2004 in WPMP No.25644/2004)

..... PETITIONER

AND

1 Deputy Chief Personal Manager, APSRTC,
O/o. Regional Manager, Hyderabad City Region,
Picket, Hyderabad.
2 Divisional Manager, APSRTC,
Medak Division, Sanga Reddy.
3 Depot Manager, APSRTC,
Sanga Reddy.

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to

issue an appropriate Writ, order or direction particularly a writ in the nature of Mandamus declaring the action of the Respondents not implementing the order dated 08-11-1992 and cancellation of his promotion by an order dated 28-12-1994 without communicating the promotional order on the sole ground that I have not affected the promotion till that date, is arbitrary illegal and violative of Articles 14, 16 and 21 of Constitution of India and the principles of natural justice and fair play and amounts to unfair Labour Practice punishable under Schedule V appended to Section (2) (ra) of I.D.Act and consequently direct the Respondents to promote him as Depot Clerk and tender all other monetary benefits besides implementation of the order dated 9-11-1992 passed by the R.M. order No.E.5/454/(6)/82-H.R.

For the Petitioner: MR.S.ASHOK ANAND KUMAR, ADVOCATE.

For the Respondents 1 to 3: MR.K.HARINATH, SC FOR APSRTC

(Not Present)

The Court made the following:

ORAL ORDER:

Heard the learned counsel for the petitioners.

2. None appears for the respondents and there is no representation on behalf of the respondents.

3. Since the first petitioner died, his legal representatives were brought on record as petitioners
2 to 4 as per the orders in W.P.M.P.No.25644 of 2004, dated 28-10-2004.

4. The first petitioner seeks a declaration that the action of the respondents in not implementing the order, dated 08-11-1992, and cancellation of his promotion by an order, dated 28-12-1994, without communicating the promotional order on the sole ground that he did not effect the promotion till that date is arbitrary and illegal.

5. The case of the first petitioner is that initially he was appointed as a Conductor in the respondent-Corporation in the year 1966 and later he was promoted as an Assistant Depot Clerk in the year 1978. While discharging his duties in that capacity, the first respondent through

proceedings, dated 09-11-1982, accorded sanction for regularization of increments in the pre-revised pay scales from 13-07-1973 till the date of said proceedings.

6. It is the further contention of the first petitioner that he came to know for the first time that he was promoted as a Depot Clerk by the first respondent through letter, dated 24-10-2004. Subsequently, on 28-12-1994, the order of said promotion of the first petitioner as Depot Clerk was cancelled. Hence, the writ petition.

7. The respondent-Corporation has filed counter-affidavit stating *inter alia* that the first petitioner was never a disciplined employee, he was warned on several occasions, censured twice, his increment was deferred ten times and was also suspended thrice. However, by an order, dated 24-10-1994, the first petitioner along with 11 others was promoted as Depot Clerk as per the Regulation 30 of the APSRTC Employees (Recruitment) Regulations, 1966. As per the Condition No.7 of the said order of promotion, if any of the promotees failed to join the new post within 30 days, he will forfeit all his rights for such promotion. It is further stated that the first petitioner, instead of joining duty within the stipulated period of 30 days, made a representation on 01-12-1994 to the Depot Manager, Sangareddy, whereby it was informed that due to his family problems he was not in a position to go on promotion to Secunderabad and with a further request to retain him as Assistant Depot Clerk in the place where he was working before promotion.

8. It appears that on 05-12-1994 the Competent Authority addressed a letter to the third respondent-Depot Manager, Sangareddy, to relieve the first petitioner immediately if he was willing

to effect the promotion, in spite of which, no reply had been received from the third respondent. Therefore, having regard to the fact that the first petitioner did not join the duty within 30 days and particularly in the light of the letter addressed by him, dated 01-12-1994, seeking retention as Assistant Depot Clerk at the previous place only, the orders of promotion, according to the first petitioner, were cancelled through proceedings, dated 28-12-1994, and the same were exhibited in the Notice Board from 02-09-1995 to
09-01-1995. Therefore, it is stated in the counter-affidavit that the allegation of the first petitioner that he had no knowledge of the said orders of cancellation of promotion and the same were not informed to him was not correct. It is also stated in the counter-affidavit that all the arrears due to the first petitioner were calculated and paid to him. In fact, though he was informed that the orders of the first respondent said to have been received on 08-11-1992 (copy of which annexed reveals that it was dated 09-11-1982), was not given effect to, no specific averments or details are furnished. On the other hand, in the counter-affidavit, it was stated that all the arrears due to the petitioner were calculated and paid to him.

9. For the foregoing reasons and the statements specifically made in the counter-affidavit, I do not find any merit in the writ petition and the same is liable to be dismissed.

10. Accordingly, the writ petition is dismissed. However, there shall be no order as to costs.

D.S.R. VARMA, J

28TH OCTOBER 2004

ISN/KRK

To:

1.The Deputy Chief Personal Manager, APSRTC, O/o. Regional Manager, Hyderabad City Region, Picket, Hyderabad.
2.The Divisional Manager, APSRTC, Medak Division, Sanga Reddy.
3.The Depot Manager, APSRTC, Sanga Reddy.

4.Two CD copies.